

Chair's Annual Report 2020 Toronto Licensing Tribunal

Mary Lee, Chair

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TORONTO LICENSING TRIBUNAL

CHAIR'S ANNUAL REPORT 2020

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1) INTRODUCTION

This is the 2020 Chair's, Annual Report of the Toronto Licensing Tribunal.

The Toronto Licensing Tribunal (TLT) is an adjudicative tribunal that is part of the City's regulation of certain occupations and businesses, to protect consumers and the public. A licence holder or applicant may request a hearing before the TLT to challenge a decision of the City's Municipal Licensing & Standards Division (MLS), or MLS may require a licence-holder or applicant to appear before the Tribunal. Most of the cases before the TLT involve vehicle-for-hire licences, which includes taxicabs. The TLT acts independently from MLS and the City when it hears and decides cases in accordance with the evidence and the law.

Further information about the Tribunal is available at:

<https://www.toronto.ca/services-payments/permits-licences-bylaws/toronto-licensing-tribunal/>.

Submitted respectfully on November 16, 2021.

2) CHAIR'S MESSAGE

It is my pleasure to report that 2020 was another productive year for the Toronto Licensing Tribunal (Tribunal). As was the case across all service delivery areas at the City of Toronto, the year 2020 was a time of significant and unprecedented challenges for the Tribunal due to the impacts of the COVID-19 pandemic. Of particular importance, and what would become the Tribunal's key 2020 priority, was to pivot and implement an alternative and accessible platform and procedure for conducting license hearings that would not require participants to attend in-person.

When the City of Toronto's emergency response measures were launched in March 2020, it resulted in the discontinuance of in-person hearings. Until that time, all hearings undertaken by the Tribunal were conducted in-person at the East York Civic Centre. Through the collaborative efforts of Tribunal members and City of Toronto staff, the Tribunal was able to work through several logistical challenges to the point that an electronic (virtual) hearing platform and related procedures were implemented and active by May 2020. This would result in the Tribunal being one of the first City of Toronto tribunals to launch virtual hearings. The backlog of unheard cases caused by the interruption in the hearing schedule was resolved very quickly, and only minor amendments to the Tribunal Rules of Procedure related to improved accessibility needed to be made prior to May 2020 launch.

Hearings for the remainder of 2020 successfully continued in the virtual platform with very positive feedback received from stakeholders. Of particular benefit was the creation of a one-page Practice Direction to provide members of the public and stakeholders an overview and framework of the new electronic (virtual) hearing process. In addition, the Tribunal successfully trialed one-member panel electronic (written) hearings to efficiently deal with proposed resolutions. Further applications of this hearing format are being considered.

While changes to how hearings are held became the unexpected priority, work continued on identifying new opportunities to enhance fair, accessible and cost-effective dispute resolution services for our clients through an ongoing comprehensive review of the Tribunal Rules of Procedure. Updates on specific key initiatives arising from this work will be included in the Chair's Annual Report 2021.

In closing, I wish to recognize the hard work of our Tribunal members and staff and to thank them for their continued support in delivering the outstanding service that clients expect.

Yours sincerely,



Mary Lee, Chair

3) SUMMARY OF ACTIVITIES

Member Changes

The Tribunal operated with a full complement of members between January and September of 2020, which included six members and one Chair. The Tribunal had one member resignation, Maureen Carter-Whitney, which took effect September 25, 2020. The City Appointments Office was able to fill the position on November 27, 2020 with a new member, Paula Turtle. Therefore, the Tribunal operated with a full capacity for just under 10 months throughout 2020.

Business Meetings

The Tribunal held three public Business Meetings: February 11, 2020; May 22, 2020 and November 23, 2020.

Subject matters discussed at the Business Meetings covered the following areas:

- Proposed Amendments to TLT Rules of Procedure
- Review of the Rules of Procedure, By-Law No. 1 to allow videoconferencing hearings
- Tutorial for members on conducting Virtual Hearings using Webex Platform
- Review of proposed forms to support amendments to TLT Rules of Procedure
- Proposal of Pilot Project to Enhance Pre-Hearing Conferences
- Municipal Licensing and Standards By-Law updates
- Administrative Law Updates
- Toronto Licensing Tribunal General Administrative Updates
- Overview of Plan for Resumption of Hearings

Training

In November 2020, the Tribunal Chair, Ms. Mary Lee attended the Society of Ontario and Adjudicators and Regulators' Annual Conference (SOAR).

Court Services training budget was made available to new member Paula Turtle upon appointment on November 27, 2020 to obtain Certification in Adjudication for Administrative Agencies training with SOAR/Osgoode Professional Development.

Pilot Project to Enhance Pre-Hearing Conferences

At the October 23, 2019 Business Meeting, the Tribunal Chair proposed a pilot project to take place in 2020 that would enhance the overall pre-hearing conference process.

The goal of the pilot project is to streamline the business process, increase efficiency, shorten the time to hearing and improve overall client satisfaction. The proposed pilot project framework was reviewed by the members for input. More details about next steps to be provided at the upcoming scheduled Business Meeting in 2020. Although procedural discussions continued into 2020, the COVID-19 pandemic emergency put the formal roll-out of the pilot project on hold. All parties recognized new remote/online services would need to be added to the process given the nature of the increasing need for remote services. As such, a key aspect of the planned pilot allowing for one-member panels to conduct electronic (written) hearings was identified as a priority and was adopted for implementation. Further advancements for the purpose of improving the pre-hearing conference process will be reported in the Chair's Annual Report 2021.

Toronto Licensing Tribunal Administration Office

The Tribunal office is part of the City's Court Services Division, and it has collaboratively worked with other Court Services units to provide ongoing client and operational support.

During 2020, the Tribunal was supported by a team of staff under the management of the Tribunal Supervisor. The staff team include 3 support assistants who coordinate a wide array of activities in support of Tribunal proceedings.

On March 14, 2020, the TLT Chair provided direction to Court Services Tribunal staff to issue Notices of Postponement for all in person hearings scheduled between March 16, 2020 and April 3, 2020. The decision was based on Court Services' recommendation and the completion of a risk assessment based on a [list of considerations provided by the Government of Canada](#).

As a result of the COVID 19 pandemic emergency, Tribunal staff were required to work remotely effective March 18, 2020. Staff were instrumental in implementing on-line hearings in relatively short order which resulted in continued access to justice and minor interruption to Tribunal operations.

On March 20, 2020, the Government of Ontario passed an emergency order ([O.Reg. 73/20](#)) under the Emergency Management and Civil Protection Act.

On March 23, 2020, the Ontario Court of Justice issued an order and extended its period of postponement for all [Provincial Offences Act matters scheduled up to and including May 29, 2020](#). Further, Mayor John Tory declared an [emergency in the City of Toronto](#).

Given the developments from the week of March 23, 2020 and based on a further risk assessment for Tribunal hearings scheduled until May 29, 2020, on March 27, 2020,

Court Services recommended that the Tribunal Chair consider extending the postponement of hearings beyond April 3, and to include hearings scheduled up to and including May 29, 2020. On March 27, 2020, the Tribunal Chair issued a direction to extend the period of postponement from April 3, 2020 to May 29, 2020.

On April 15, 2020, MLS legal identified a list of priority matters and requested that the Tribunal consider holding electronic hearings to address them. Further, a request was made that written hearings be held for Proposed Resolutions.

On April 29, 2020, the Tribunal consented to electronic and written hearings and provided Court Services with direction to establish the administrative processes to support the alternative formats.

As part of the new pre-hearing conference process, on June 23, 2020 the Tribunal successfully trialed its first day of one-member electronic (written) hearings for Proposed Resolutions. The Tribunal will continue to examine additional opportunities to utilize this hearing format, where appropriate.

The Tribunal staff continued to support Tribunal members in remote hearings and on-line services throughout 2020.

The Tribunal Administration office is instrumental in the timely and efficient functioning of the Tribunal, which includes case management and confidential distribution of hearing materials, support to the Tribunal members, and collaborating with City Clerk's Office in the administration of member complement and remuneration. The staff oversee the Summary of Decisions for hearings and the release and posting of all Tribunal written reasons for decisions on the Tribunal website.

Furthermore, the office ensures accountability for compliance with the Tribunal Relationship Framework and collaborates with the MLS Division in addition to various stakeholders. The staff provide statistical information and annual activity reporting in relation to the Tribunal performance indicators. The Supervisor works with the Chair to provide training and orientation for newly appointed members and ongoing member scheduling.

4) CHAIR'S RECOMMENDATIONS

As indicated in the Municipal Code and the Relationship Framework for the Toronto Licensing Tribunal, the Annual Report should contain the recommendations of the Chair for improvements or changes to the hearing process, and other policies and procedures of the Tribunal, as well as proposed educational training.

Update on the 2019 Chair's Recommendations:

The Chair recommended a comprehensive review of the Tribunal Rules of Procedure to ensure that the Tribunal proceedings are fair, accessible, and efficient for all parties. The review commenced in the Fall of 2019 and continued throughout 2020 and is expected to be completed in 2021.

The second recommendation from the Chair was to develop and launch a pilot project of the Pre-Hearing conference process. The Tribunal Supervisor, Members and MLS staff were asked to identify opportunities for increased efficiency and effectiveness. The review was halted while staff and members revised their rules and procedures in response to the COVID-19 pandemic. In the interim, the Tribunal was able to successfully trial one-member panel electronic (written) hearings to expedite early resolution of licensing matters.

2020 Chair's Recommendations:

1) Finalize the Review of the Tribunal Rules of Procedure

The main objective of the comprehensive review of the TLT is to simplify our procedural rules so that self-represented parties can participate meaningfully in our adjudicative process. We quickly learned that a comprehensive review is a labour intensive exercise, as it involves the input of all stakeholders in order to have a common understanding of the rules, consistency in decision-making, fairness, balance, efficiency and access to justice. The final summary of the rules of procedure review will be reported in the Chair's Annual Report 2021.

2) Finalize the Review of the Pre-Hearing Conference Process

In support of the successful 2020 launch of one-member electronic (written) hearings to deal with proposed resolutions, it is necessary to look for other opportunities to expand this feature within the Tribunal's mandate, such as setting aside one to two days a month, separate from our hearing days, to address these matters. The Tribunal Supervisor, Members and MLS staff will undertake this work with a view to continuing to enhance the efficiency and effectiveness of the Pre-Hearing Conference Process.

5) STATISTICAL INFORMATION – 2020

In 2020, the Toronto Licensing Tribunal recorded 174 new cases filed. There were 31 updates to the MLS reports filed that expanded the matters to be dealt with in existing cases. The Tribunal scheduled 156 appearances before a hearing panel.

Year	Total Appearances Before Hearing Panel
2016	214
2017	336
2018	235
2019	225
2020	156

As the above table shows, the number of appearances before a hearing panel in 2020 was less than in 2019 and previous years. The COVID-19 emergency pandemic had an impact on not only the number of hearings but method of which they were delivered to the public once hearings started again in May 2020.

The Tribunal scheduled hearings every Thursday, with the exception of two breaks during the first week of August and the last two weeks of December, in addition to the shutdown from March 2020 to May 2020 due to COVID-19. Typically, there are 48 scheduled hearing dates per year. In 2020, there were 52 hearing dates, which included 10 In Person hearing dates, 40 Electronic Hearing dates and two written hearing dates.

Prior to the March 2020 shutdown, the Tribunal scheduled five pre-hearing dates, with 31 matters appearing. This resulted in 31 meetings between an Applicant and MLS. Approximately 23% of the pre-hearings (seven cases) resulted in a resolution of the case without the need for a full hearing.

In 2020, the Tribunal issued 17 written Reasons for Decision following a hearing. This was a decrease in comparison to the 27 decisions issued in 2019, the 20 decisions issued in 2018 and the 35 decisions issued in 2017. This can be attributed to a decrease in appearances before the Hearing Panel from 2019 to 2020.

Licensing and Enforcement Reports Filed with the Tribunal

MLS Reports	2020	2019	2018	2017	2016
Licensing Reports	170	148	162	131	180
Enforcement Reports	4	7	21	21	21
Total New Cases	174	155	183	152	201
Licensing Updates	26	24	32	21	58
Enforcement Updates	5	5	23	11	33
Total	205	184	238	184	292

Interpreters

Languages interpreted in 2020	Number of Visits
Amharic	1
Arabic	1
Bengali	2
Cantonese	1
Dari	2
Farsi	0
Hindi	0
Mandarin	2
Oromo	3
Pashto	0
Punjabi	1
Serbian	1
Sinhalese	1
Somali	2
Spanish	1
Tamil	1
Tigrinya	0
Twi	0
Urdu	7
Vietnamese	0
Total	26

Categories of Licence Types

The cases before the Tribunal can be categorized on the basis of the licence types that were involved. The Chart below lists the cases that were the subject of a hearing in 2020. As this Chart indicates, some of these cases involved more than one type of licence and some cases had more than one appearance.

In 2020, the top licence types that came before the Tribunal were:

- Taxicab Owner's Licence; and
- Vehicle-For-Hire Driver's Licences.

The chart below identifies the number of licence types where an alleged contravention of the Municipal Code was identified by MLS in that licence category. When a contravention occurs, MLS can deny the new application for a licence or renewal of a licence, or notify the holder of a licence (Licensee/Applicant) of their requirement to appear before the Tribunal.

Licence Categories by Reports Received in 2020

Licence Category	New Applicant	Applicant for Renewal	Holder of Licence
Building Renovator's Licence	0	1	0
Commercial Parking Lot Licence	0	0	1
Drive-Self Rental Owner Licence	0	1	0
Eating Establishment Licence	1	2	2
Eating Establishment Licence AND Retail Store (Food) Licence	0	0	1
Entertainer's Licence	1	0	0
Holistic Centre Owner's Licence AND Holistic Practitioner's Licence	0	1	2
Holistic Practitioner's Licence	0	3	0
Holistic Practitioner Licence AND Holistic Centre Licence	0	1	0
Limousine Owner's Licence	0	0	2
Non-Motorized Refreshment Vehicle Owner's Licence	0	1	0
Personal Services Settings	1	2	0
Public Garage Licence	1	1	0
Public Hall Licence	1	0	0
Retail Store (Food) Licence	1	0	0
Retail Store (Food) Licence AND Eating Establishment Licence AND Retail Store (Food) Licence	0	1	0
Taxicab Owner's Licence*	0	9	53
Tow Truck Driver's Licence	12	5	16
Tow Truck Owner's Licence AND Public Garage Licence	0	1	1
Tow Truck Owner's Licence AND Tow Truck Driver's Licence	0	1	2
Vehicle-For-Hire Driver's Licence	11	16	19
TOTAL	29	46	99

**If taxicab owner also has a VFH licence, the report is counted here as one (1).*

Licence Categories by Matters Heard in 2020

Licence Category	New Applicant	Applicant for Renewal	Holder of Licence
Auctioneer Licence	1	0	0
Body Rub Parlour Owner/Operator's Licence	0	3	0
Body Rubber Licence	1	0	0
Building Renovator's Licence	1	1	0
Commercial Parking Lot Licence	0	0	1
Drive-Self Rental Owner Licence	0	1	0
Driving School Instructor with Vehicle Licence	0	1	0
Eating Establishment Licence	0	1	4
Holistic Centre Licence	1	0	0
Non-Motorized Refreshment Vehicle Owner's Licence	0	1	0
Personal Services Settings	2	3	0
Public Hall Licence	1	0	0
Public Garage Licence	0	4	0
Public Hall Licence	1	0	0
Refreshment Vehicle Driver's Licence	0	0	1
Retail Store (Food) Licence AND Eating Establishment Licence AND Retail Store (Food) Licence	0	2	0
Taxicab Owner's Licence*	0	8	5
Tow Truck Driver's Licence	15	4	18
Tow Truck Owner's Licence AND Public Garage Licence	0	2	0
Tow Truck Owner's Licence AND Tow Truck Driver's Licence	0	2	0
Vehicle-For-Hire Driver's Licence	12	21	39
TOTAL	34	54	68

*If taxicab owner also has a VFH licence, the report is counted here as one (1).

Source document: 2020 Toronto Licensing Tribunal Reference List

6) MEMBERS

Position	Name	Terms of Appointment
Chair	Mary Lee	March 29, 2019 – November 14, 2022
Members		
	Anu Bakshi	March 29, 2019 – November 14, 2022
	Maureen Carter-Whitney	March 29, 2019 September 25, 2020 (resignation)
	Paula Turtle	November 27, 2020 – November 14, 2022
	Verlyn Francis	March 29, 2019 – November 14, 2022
	Melina Laverty	March 29, 2019 – November 14, 2022
	Edgar-Andre Montigny	March 29, 2019 – November 14, 2022
	Daphne Simon	March 29, 2019 – November 14, 2022

Add notes:

Please refer to the City of Toronto Public Appointments website for the member biographies. <https://www.toronto.ca/services-payments/permits-licences-bylaws/toronto-licensing-tribunal/tribunal-member-biographies/>